

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

CALVIN HEMPHILL, # 406562

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Plaintiff,

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v.

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CIVIL ACTION NO. WDQ-12-02266

SHAVELLA MILES, *et al.*

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Defendants

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**DEFENDANT OFFICERS' RESPONSE TO
MOTION FOR VOLUNTARY DISMISSAL**

NOW COME Defendants, Major Shavella Miles (“Maj. Miles”), Sergeant Michael Porter (“Sgt. Porter”), Correctional Officer Kwanita West (“CO West”), Correctional Officer Teron Knight (“CO Knight”), Correctional Officer Tracey Tucker (“CO Tucker”), Captain Kevin Hickson (“Capt. Hickson”), and Correctional Officer Lisa Evans (“CO Evans”) (collectively, “Defendant Officers”), by and through undersigned counsel, pursuant to Fed. R. Civ. P. 41(a), with this response to Plaintiff Calvin Hemphill’s (“Inmate Hemphill”) “motion for voluntary dismissal” and say:

1. Pursuant to Fed. R. Civ. P. 41(a)(1), a plaintiff may dismiss an action without a court order by filing (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) stipulation of dismissal signed by all parties who have appeared. Fed. R. Civ. P. 41(a)(1)(A). Defendant Officers filed a motion for summary judgment on March 25, 2013. (ECF No. 24). Also, the parties have not signed a stipulation of dismissal in this case. Therefore, Inmate Hemphill must obtain leave from this Court to voluntarily dismiss this case. *Id.*

2. While Defendant Officers have not executed a stipulation of dismissal in this case, Defendant Officers do not oppose dismissal of the case *sub judice*. Defendant Officers, however, contend that Inmate Hemphill's case should be dismissed with prejudice.

WHEREFORE, it is respectfully requested that this Court dismiss Inmate Hemphill's case with prejudice.

Respectfully submitted,

DOUGLAS F. GANSLER
Attorney General of Maryland

/s/
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CERTIFICAT OF SERVICE

I HEREBY CERTIFY that on this 26th day of April 2013, a copy of the foregoing Defendant Officers' Response to Motion for Preliminary Injunction was mailed, postage prepaid, to:

Calvin Hemphill, #406562
Maryland Correctional Institution - Hagerstown
18601 Roxbury Road
Hagerstown, Maryland 21746
Pro Se Plaintiff

_____/s_____
Tamal A. Banton